

# **Exhibit J**

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**From:** Katy Peaslee <KPeaslee@susmangodfrey.com>  
**Sent:** Friday, January 3, 2025 3:12 PM  
**To:** Oliver J. Fong; NYT-AI-SG-Service@simplelists.susmangodfrey.com; dailynews-ai-rfem@rothwellfigg.com  
**Cc:** KVP-OAI; openaicopyrightlitigation.lwteam@lw.com; OpenAICopyright; #NewYorkTimes-Microsoft-FDBR; NewYorkTimes\_Microsoft\_OHS  
**Subject:** RE: NYT v OpenAI - Custodians

[EXTERNAL]



Hi Oliver,

The Times has already agreed to make individuals named in response to Microsoft's Interrogatories 7 and 8 (Christine Liang, Hannah Pofert, and Sam Felix) custodians and to run terms relevant to these issues over their documents. We disagree that adding Mr. Heidman or Mr. Soria is proportional to the needs of the case or that they are likely to have additional relevant, non-duplicative documents. The Times accordingly does not agree to add them as custodians.

Have a good weekend,  
Katy

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**From:** Oliver J. Fong (via NYT-AI-SG-Service list) <NYT-AI-SG-Service@simplelists.susmangodfrey.com>  
**Sent:** Tuesday, December 31, 2024 3:39 PM  
**To:** NYT-AI-SG-Service@simplelists.susmangodfrey.com; dailynews-ai-rfem@rothwellfigg.com  
**Cc:** KVP-OAI <KVPOAI@keker.com>; openaicopyrightlitigation.lwteam@lw.com; OpenAICopyright <OpenAICopyright@mofo.com>; #NewYorkTimes-Microsoft-FDBR <NewYorkTimes-Microsoft-FDBR@faegredrinker.com>; NewYorkTimes\_Microsoft\_OHS <NewYorkTimes\_Microsoft\_OHS@orrick.com>  
**Subject:** NYT v OpenAI - Custodians

**EXTERNAL Email**  
Counsel,

The Times has acknowledged that discovery into its access controls, including its paywall and limitations imposed on web crawlers and bots, is relevant and proportional to the needs of this case. See ECF 330 at 3; Times Resp. to RFPs 38, 133, 166. Although the Times has agreed to run a search term aimed at these issues, it has only agreed to run that search term against the custodial files of high-level custodians unlikely to have day-to-day discussions about how the Times's access controls operate and are enforced. And, as discussed on Friday's meet and confer, the Times's production regarding these issues has been deficient to date.

OpenAI therefore requests the addition of Justin Heidman, Staff Software Engineer, and Elijah Soria, Senior Software Engineer as custodians for terms related to the Times's access controls. The Times has specifically identified both individuals as knowledgeable about the Times's use of access controls and limitations imposed on web crawlers in response to Microsoft Interrogatories 7 and 8. Please confirm whether you will agree to add these custodians by January 3.

Thanks,

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**Oliver J. Fong** (*he, him, his*)

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